IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2401 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

FAIZULLAKHAN NASIRKHAN PATHAN

Versus

GADHVI JAGDISHKUMAR RAMSHIJI

Appearance:

1. Special Civil Application No. 2401 of 2004

MR CL SONI for Petitioner No. 1

MR MEHUL H RATHOD for Respondent No. 1

NOTICE SERVED for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 27/09/2004

ORAL JUDGEMENT

1. Rule. Mr.D.B.Rana, learned advocate for Mr.Mehul Rathod, waives service of rule on behalf of the

respondent No.1. With the consent of the parties, the matter is taken up for final hearing today.

2. This Court by order dated 24.2.2004 issued notice only for the limited purpose which reads as under:

> "Notice to the respondents returnable on 6th April, 2004. This notice is issued with respect to the prayer for restraining the defendants respondents from transferring the suit property pending suit."

3. Heard Mr.Soni, the learned advocate for the petitioner, and Mr.D.R.Rana, learned advocate for Mr.Rathod for the respondent. In view of the fact that the petitioner has prayed for the same relief which has not been considered by the trial court as well as the appellate court. It would be just and proper to restrain the respondents from transferring the property in question in any manner till the disposal of the suit. However, it will be open for the respondent to move the trial court for early hearing. If such an application is made, the trial court will consider the same and expedite the same. Rule is made absolute to the aforesaid extent with no order as to costs.

(K.S. Jhaveri, J.)

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